



# CDBG-DR

## Conflict of Interest and Standards of Conduct Policy (COI Policy)

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## 1 Legal Basis

As stated in the Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844, Federal regulations require that State grantees, in the direct Grant administration and means of carrying out eligible activities, be responsible with program administrative requirements, including those established in 24 C.F.R. § 570.489(h) related to conflicts of interest.

In this context, it is appropriate to establish that a number of federal and state conflict of interest laws can govern CDBG-DR assisted activities. Therefore, the Conflict of Interest standards set forth in this Policy are in conformity with the following applicable federal and state regulations:

1. HUD conflict of interest regulations, 24 C.F.R. § 570.611 and 24 C.F.R. §85.36;
2. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 at §200.112 and §200.318 (c)(1);
3. Puerto Rico Department of Housing Organic Act, Act 97 of June 10, 1972, as amended;
4. The Anti-Corruption Code for the New Puerto Rico, Act 2-2018, as amended; and
5. The Puerto Rico Government Ethics Office Organic Act, Act 1-2012, as amended.

## 2 Purpose

This Policy outlines PRDOH's responsibility, in its role as grantee, to identify, evaluate, disclose and manage apparent, potential or actual conflicts of interest related to CDBG-DR funded projects, activities, and/or operations. Therefore, this Policy is intended to serve as guidance for the identification of apparent, potential or actual conflicts of interest in all CDBG-DR assisted activities and/or operations.

As stated in 24 C.F.R. § 570.489 - Program administrative requirements, this Policy also includes standards of conduct governing employees engaged in the award or administration of contracts.

## 3 Scope of the Policy

This Policy applies to all PRDOH and CDBG-DR employees, officers, designees, subrecipients, sub grantees, partners, consultants, vendors and/or contractors affiliated to CDBG-DR funded projects, activities and/or operations, and/or any person who participates in auction bids, submits quotes, is interested in executing contracts or agreements or seeks to receive an economic incentive through his/her relationship with PRDOH and CDBG-DR.

The Standards of Conducts apply to employees engaged in the award or administration of contracts under the CDBG-DR Program through the PRDOH and any of its subrecipients.

## 4 Definitions/Acronyms

**Applicant** – Any natural person or legal entity that submits an application to receive any type of assistance, service or benefit from any of the CDBG-DR programs.

**Appointing Authority** – The person or persons whose inherent duty is to appoint, promote, compensate or contract.

**Business ties** – Being a general partner or having an interest in a company, non-profit, partnership, corporation, or any type of enterprise.

**Conflict of Interest** – Situation in which any person who is a public servant, employee, agent, consultant, officer, or elected official or appointed official of the PRDOH, or of any designated public agencies, or of subrecipients that are receiving funds under the CDBG-DR Program may obtain a financial or personal interest or benefit that is or could be reasonably incompatible with the public interest, either for themselves, or with those whom they have business, or an organization which employs or is about to employ any of the parties indicated herein, or a member of their family unit during their tenure or for two (2) years after.

**Conflict of Interest (Procurement)** – When the public servant, officer, or agent of PRDOH and/or its subrecipients, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract under the CDBG-DR Program. 2 C.F.R. §200.318(c)(1).

**Contract** – Any covenant or juridical business, whether to do or not to do a specific act, executed with the consent of the contracting parties, with regard to a certain purpose and by virtue of which it is entered into. This term includes, but is not limited to, any good, work or service agreement, and any purchase and service order.

**Decision maker** – Person who exercises or has exercised any responsibility or is in a position to influence the decision-making process with respect to PRDOH or activities assisted with CDBG-DR Program funds.

**Executive agencies** – Entities of the Executive Branch of the Government of Puerto Rico, including public corporations, departments, agencies, offices, municipalities and other instrumentalities.

**Family unit** – Includes the spouse of the public servant or former public servant, his dependent children, family members within the fourth (4<sup>th</sup>) degree of consanguinity or within the second (2<sup>nd</sup>) degree of affinity who are not dependents of or reside with the public servant or former public servant, or those persons who share the legal residence of the public servant or former public servant, or whose financial affairs are under the de jure or de facto control of the public servant or former public servant.

**Former public servant** – Person who has worked in PRDOH and/or any of its related agencies, including Subrecipients.

**Gifts** – Payment or enrichment without equivalent retribution or of lesser value. Includes, but is not limited to, money, goods or any other object, favorable economic opportunities, tips, concessions, benefits, discounts, privileges or special considerations.

**HUD** – United States Department of Housing and Urban Development.

**Legal entity** – Includes corporations, professional corporations, companies, special corporations, cooperatives and any entity defined as such in any applicable law, de facto partnerships, societies or corporations, including those that constitute for these purposes an alter ego of the legal entities, affiliates or subsidiaries thereof.

**Natural person** – Any person defined as such in any applicable law, including the Puerto Rico Civil Code and including but not limited to, any president, vice-president, director, executive director, or to any member of a Board of Officers or a Board of Directors, or any person who performs similar duties.

**Organizational conflicts of interest** – Situation where because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. 2 C.F.R. § 200.318(c) (2).

**Program participant/applicant** – Any person or legal entity that has been determined to be eligible under any CDBG-DR program eligibility requirements and has been awarded assistance.

**Public servant** – Includes public officers and employees of PRDOH and/or any of its related agencies, including Subrecipients.

**PRDOH** – Puerto Rico Department of Housing.

**Subrecipient** – A non-federal entity that receives a sub award from a pass-through entity to carry out part of a Federal program 2 C.F.R. § 200.93.

## 5 Policy

In the federal sphere, two (2) sets of conflict of interest rules exist: one for procurement activities and others for non-procurement, sub-granting/program delivery activities. Hence, this Policy will cover the standards of ethics related to conflicts of interest for both types of conflict of interest rules.

In compliance with 2 C.F.R. § 200.318(c)(1) and 24 C.F.R. § 570.489(g) and (h), this Policy constitutes PRDOH's written standards of conduct covering conflicts of interest and governing actions of CDBG-DR public servants, employees, officers and/or designees engaged in the selection, award and administration of all CDBG-DR related contracts. In addition, it asserts the duty of all employees, vendors, contractors and applicants related to the CDBG-DR Programs to disclose any real or potential conflict of interest.

### 5.1 General Standards of Conduct (Puerto Rico Government Ethics Office Organic Act, Act 1-2012, as amended)

- a. No public servant shall solicit any benefit for his/her agency, whether directly or indirectly, from a private person, business or public entity regulated or contracted by the former, or carry out actions conducive to obtaining a contract. A public servant may only accept a benefit for the agency from a private person, business or public entity that is neither regulated nor contracted by the former, or that does not carry out actions leading to obtaining a contract, provided that he/she complies with the regulations adopted for such purposes.
- b. No public servant shall use the duties and powers of his/her office or public property or funds to directly or indirectly obtain any benefit, not permitted by law, for him/herself or a private person or business.
- c. No public servant shall accept or solicit from a private person or business, whether directly or indirectly, a benefit as a compensation for carrying out, expediting, delaying, or not discharging the duties and responsibilities of his/her office.
- d. No public servant shall accept or solicit from a private person or business, whether directly or indirectly, benefits for him/herself or a person, business or entity in exchange for carrying out actions that are biased to favor him/her or another private person or business.
- e. No public servant shall ensure that he/she may or purport to have influence over another public servant in carrying out his/her functions, in exchange for obtaining or attempting to obtain a benefit.
- f. No public servant shall reveal or use confidential information or documents obtained as a result of his/her employment to obtain, directly or indirectly, any benefit for him/herself or any other private person or business.
- g. No public servant shall intervene, either directly or indirectly, in any matter in which he/she has a conflict of interests that may result in his/her benefit. No public

servant shall intervene, directly or indirectly, in any matter in which any member of his/her family unit, relative, partner or housemate has a conflict of interest that may result in benefit for any of the abovementioned. In the case that any of the abovementioned relationships has ended during the two years preceding the appointment of the public servant, he/she shall not intervene, either directly or indirectly, in any matter related to them until two (2) years have elapsed after his/her appointment. This prohibition shall remain in effect insofar the beneficial ties with the public servant exist. Once the beneficial ties end, the public servant shall not intervene, either directly or indirectly, in such matter until two (2) years have elapsed.

- h. Neither the appointing authority nor the public servant with influence on the Appointing authority shall intervene, either directly or indirectly, in the appointment, promotion, compensation or contracting of his/her relative. It shall be understood that a public servant has the power to decide or exert influence when a law, regulation, description of duties or designation so provides. This prohibition shall not apply when, in the discretion of the Executive Director of the Government Ethics Office, there are special circumstances that have been taken into account before the appointing authority or the public servant with influence exercise his/her power. This shall not apply to a career position when the merit principle is met; advancements or personnel-related transactions required by law; general revisions of a classification plan; Section 8 benefits received; public bids in which all the requirements set forth in the Act 1-2012 concur; participation in summer programs; the obtainment of services, loans, sureties or incentives granted under the terms of a State, Federal or Municipal program. Provided, that under the abovementioned exceptions, general applicable rules are complied with and the appointing authority or the public servant with authority to decide or exert influence does not intervene and so certifies through a formal disqualification statement.
- i. No public servant shall use, on any real or personal property of the Government, any symbol, slogan, image, picture, pin, logo, sticker, label, sign, insignia, technological application, written message or any other paraphernalia that may identify or promote directly or indirectly the electoral interests of any political party or candidate.
- j. No public servant shall, while carrying out the duties of his/her office, wear or use on his/her person, in his/her property or in any other property under his/her care, any symbol, slogan, image, picture, pin, logo, sticker, label, sign, insignia, technological application, written message or any other paraphernalia that may identify or promote directly or indirectly the electoral interests of any political party or candidate.

- k. No public servant shall, while carrying out the duties of his/her office, lead or promote activities that directly or indirectly promote the electoral interests of any political party or candidate.
- l. No public servant shall, while carrying out the duties of his/her office, make monetary contributions or use his/her time to carry out or participate in a political activity.
- m. No public servant shall, while carrying out the duties of his/her office, demand or request other public servants to make monetary contributions or devote their time to carry out or participate in a political activity.
- n. No public servant shall solicit or accept him/herself or through a private person or business any benefit from a contractor or an agency regulated by his/her agency for a political activity.
- o. No public servant shall usurp an office or task to which he/she has not been appointed or designated nor discharge the same without being duly qualified to do so. No public servant shall persist in obstinately discharging the duties of his/her office or tasks entrusted to him/her, once his/her term has concluded or after having received an official communication ordering the termination or suspension of his/her duties.
- p. No public servant shall alter, destroy, mutilate, remove or conceal, in whole or in part, public property under his/her custody.
- q. No public servant, authorized by law to issue certifications and other documents, shall knowingly issue a certification or document containing false statements.
- r. No public servant shall fail to comply with any of his/her duties as provided by law or regulations, if such action shall result in the loss of public funds or cause damages to public property.
- s. No public servant shall carry out any action that may call the impartiality and integrity of the government endeavor into question.
- t. No public servant shall accept or keep a job or contractual or business relations or responsibilities in addition to those of his/her public office or employment, whether it is in the Government or in the private sector, which, although legally permitted, may have the effect of impairing his/her freedom of judgment in the performance of his/her official functions.
- u. No public servant shall accept or keep a job or contractual relations from which he/she obtains undue advantage with a private person or business that is regulated by or has contractual business or financial relations with the government agency for which he/she works, when the public servant is empowered to decide or influence the official actions of the agency with regard to such private person or business.
- v. No public servant who is authorized to contract or approve or recommend the execution of a contract in the name of the agency for which he/she works shall intervene or participate in the execution of a contract with a private person or

business in which he/she, or any member of his/her family unit, relative, partner or housemate, has or has had directly or indirectly a monetary interest during the last two (2) years before his/her appointment. In the event that any of the abovementioned relationships has included during the two years preceding the appointment of the public servant, the latter shall not intervene or participate in the execution of a contract until two (2) years have elapsed since his/her appointment. This prohibition shall continue in effect while the beneficial ties with the public servant last. Once the beneficial ties end, the public servant shall not intervene or participate in the abovementioned contract until two (2) years have elapsed.

- w. The appointing authority shall not execute a contract in which a public servant of the agency or member of his/her family unit, relative, partner or housemate has or has had a direct or indirect monetary interest during the last two (2) years preceding his/her appointment. This prohibition shall not apply when, in the discretion of the Executive Director of the Government Ethics Office, there are special circumstances that have been taken into account before the appointing authority contracts with the public servant or a member of his/her family unit, relative, partner or housemate. This shall not apply to the receipt of benefits under the Section 8 program; contracts executed with the Department of the Treasury to operate electronic lottery terminals; contracts executed for the acquisition of rights over intellectual property such as literary, artistic works or inventions; public bids in which all the requirements set forth by law concur; participation in summer programs; the obtainment of services, loans, sureties or incentives granted under the terms of a State, Federal or Municipal program. Provided, that under the abovementioned exceptions, general applicable rules regarding eligibility shall be observed.
- x. No public servant shall approve or authorize a contract with a private person or business knowing that such person or business is representing cases or matters, which involve a conflict of interests between the contracting agency and the personal interests, said private person or business is representing. To such effects, a contractual clause shall be included in which such private person or business certifies that it is not involved in a conflict of interest.
- y. No public servant shall represent any private person or business, either directly or indirectly, with respect to an official action, if he/she, a member of his/her family unit, relative, partner or housemate has participated, shall participate or will probably participate in the disposition of said official matter. This prohibition shall not apply when the participation of the public servant is required by law.
- z. No public servant shall represent any private person or business before an agency with regard to any official action in which the appointing authority is his/her relative, member of his/her family unit, partner or housemate.

- aa. No public servant shall, in his/her private capacity, represent or counsel, either directly or indirectly, a private person or business before any agency, in cases or matters involving a conflict of interests or public policy between the Government and the interests of such a private person or business.
- bb. No full-time public servant shall, during working hours, represent, advise or serve as an expert for a private person or business in trials, public hearings or in any other case or matter before a court of justice, quasi-judicial body or an agency.
- cc. Any public servant who must take any official action that is contrary to the prohibitions established by the aforementioned standards shall report it to the PRDOH Legal Division in order to assess the necessity to ask for a waiver to the Government Ethics Office before taking such action. In his/her statement, the public servant may request to be relieved from intervening in the matter or participating in the agency's deliberations related to the official matter.
- dd. The public servant shall deliver a copy of the statement filed with the Office to the appointing authority.
- ee. Once the situation is assessed, the Government Ethics Office shall notify the public servant and the appointing authority that there are no conflicts of interest, or, should there be, that the option to disqualify himself/herself is available.

## **5.2 Procurement Standards**

- a. Goods and services must be procured in an effective manner. More importantly, such goods and services need to be procured in compliance with Federal and State laws and regulations, as applicable.
- b. PRDOH prohibits any public servant, employee, officer, or agent to participate in the selection, award, or administration of a contract supported by CDBG-DR funds if he or she has a real or apparent conflict of interest, unless otherwise formally determined by PRDOH that the apparent conflict of interest is resolved in accordance with this Policy.
- c. When considering whether a conflict of interest situation exists or may exist, the following factors shall be examined:
  - i. particular circumstances of each procurement;
  - ii. specialized equipment required by the agency;
  - iii. past, current or future working relationships between the proponents and the agency; and
  - iv. the period of time between the potential or real conflict of interest situation and the initiation of the procurement process.
- d. No PRDOH and/or CDBG-DR employee, officer, designee or agent may solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. 2 C.F.R. § 200.318(c)(1).

- e. PRDOH employees shall disclose to their direct supervisor and Division Director, the nature and extent of any personal or financial interest in any CDBG-DR related contract, agreement, purchase of good or services or project. To learn more about the steps to disclose a real or potential conflict of interest, see Section 6.7 of this Policy.

PRDOH maintains written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest mean that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. 2 C.F.R. § 200.318(c)(2).

### **5.3 PRDOH and CDBG-DR Program Employees**

PRDOH, specifically the CDBG-DR Program, prohibits individuals who have functions or responsibilities with respect to activities assisted with CDBG-DR funds, or are in a position to participate in a decision-making process, or gain inside information with regard to these activities, from obtaining a financial interest or benefit from a CDBG-DR assisted activity or have an interest in any contract, subcontract or agreement with respect to CDBG-DR, either for themselves or their family unit. This provision applies to employees, agents, consultants, elected/appointed officers, or designees of PRDOH and/or CDBG-DR.

### **5.4 Program Applicant and Participants**

A conflict of interest exists or may exist for an applicant or program participant when the person applying for CDBG-DR Program assistance, a member of his/her family unit or someone with whom they have business ties are employed by PRDOH in the CDBG-DR Program in a position in which they exercise, have any functions or responsibilities with respect to the CDBG-DR Program, are in a position to participate in or influence the decision making process, gain inside information or may have financial gain through federally-funded grants, contracts or subcontracts regarding the CDBG-DR Programs.

PRDOH requires individuals who apply for assistance under CDBG-DR programs to disclose personal relationships that could give rise to an actual conflict of interest or the appearance of a conflict of interest. Program applicants and participants are subject to the full disclosure obligation. Applicants within a family unit which has ties to PRDOH and CDBG-DR Program, or one of its partner's employees, and who knowingly apply, participate and receive benefits from the Programs, will be referred to PRDOH Legal Division for further evaluation.

Applicants having any of the aforementioned personal relationships that may or could influence the decision-making process or outcome of a request for assistance in any

manner, must disclose the nature of their relationship. Failure to disclose such information may result in the immediate termination of the Applicant's participation in the program and closing of his/her application file and/or, if applicable, the return of program funds.

## **5.5 Conflict of Interest under Puerto Rico State Law**

The Anti-Corruption Code for the New Puerto Rico, Act 2-2018, as amended, consolidated separate public policy and anti-corruption legislation into a single code. Amongst the different titles that comprise the Code is the Code of Ethics for Contractors, Vendors and Applicants of Economic Incentives of the Executive Agencies of the Government of Puerto Rico (**Code of Ethics**).

The aforementioned Code of Ethics defines conflict of interest as a situation in which a personal or financial interest is or could reasonably be incompatible with the public interest. It asserts that “[n]o person shall enter into contracts with executive agencies if there is any conflict of interest. Every person shall certify that they do not represent private interests in cases or matters that involve conflicts of interest or of public policy, between the executive agency and the private interests they represent.” 3 LPRA § 1883a (n).

In a much broader scope than Federal regulations, pursuant to the Anti-Corruption Code, concerning conflict of interest, the following standards and prohibitions also apply:

- Every person who, in their relationship with PRDOH and/or CDBG-DR Program, participates in public bids, submits quotations, wishes to enter into contracts with them, seeks to receive any economic incentive, will be required to disclose all the information needed for the executive agencies to evaluate in detail any transactions or applications submitted thereto, and make correct and informed determinations. 3 LPRA § 1883a (b).
- No person will offer or deliver to any former or current PRDOH or CDBG-DR Program employee, officer or designee, members of their family units, with whom they wish to establish, or have established, a contractual, commercial or financial relationship, directly or indirectly, any gifts, goods of monetary value, contributions, gratuities, favors, services, donations, loans, or participation in any commercial entity or legal business. In the cases that refer to a former employee and/or officer, the previous prohibition will be extended for one (1) year after the ending their functions in the executive agency. This obligation extends to the stages before and after the execution of the contract, business or transaction, as well as the duration thereof. 3 LPRA § 1883a (f).
- No person shall request or obtain confidential information from a current or former public servant, with the purpose of obtaining, directly or indirectly, economic advantage or benefit for him/herself or for any other natural or legal person; nor for purposes outside the agreed upon contract. 3 LPRA § 1883a (l).

- No person shall accept or maintain contractual or business relationships with a PRDOH employee, officer, or designee, or member of his family unit, that has the effect of undermining the independence of the officer or public servant in the performance of his/her duties. Any person is prohibited from accepting or maintaining contractual or business relationships with a former PRDOH employee, officer or designee for one (1) year from the moment he/she has ceased to occupy his/her position, if in the performance of his governmental functions, said former public servant participated directly in transactions between the executive agencies and the person. 3 LPRA § 1883a (m).
- No person may contract with executive agencies if there is a conflict of interest. Every person must certify that it does not represent private interests in cases or matters that imply a conflict of interest, or of public policy between the executive agency and the private interests, he/she represents. 3 LPRA § 1883a (n).

## **5.6 Contracts**

No PRDOH and CDBG-DR employee, officer, designee, consultant, vendor, contractor, or any member of their families, can have any interest in the earnings or benefits from any agreement related to CDBG-DR funded projects, activities and/or operations.

As established in Article 3.3 of the Code of Ethics, any person who participates in public bids, submits quotes, is interested in executing contracts or agreements or seeks to receive an economic incentive in his/her relationship with PRDOH and the CDBG-DR Program, shall abide by the provisions of the Code of Ethics. 3 LPRA § 1883b.

## **5.7 Duty to disclose**

PRDOH, as grantee of the CDBG-DR Program, will not tolerate conflicts of interest. Conflicts of interest must be avoided and when they arise, should be immediately identified and attended to. Consequently, PRDOH and the CDBG-DR Program expect full disclosure from all employees, vendors, contractors and applicants regarding any real or potential conflict of interest.

All team members, employees, and other parties participating in the determination of eligibility and/or the distribution of funds, are expected to practice good judgment when presented with a situation which may involve a potential or actual conflict. All CDBG-DR Program staff are required to make a full disclosure of any interests, relationships, and/or holdings, which could potentially result in a conflict of interest.

It is PRDOH's policy that no public servants should:

- Have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, that presents a conflict with the proper performance of their duties in the public interest;
- Use or attempt to use their official position to secure privileges or advantages for themselves or others; or
- Act in their official capacity in any matter in which they have a direct or indirect personal financial interest that might reasonably be expected to impair their objectivity or independence of judgement.

The possibility of a conflict of interest arising is not limited to the PRDOH. CDBG-DR programs have an exhaustive scope and reach that affect different communities and government agencies. As these programs are developed and evolve, its reach broadens as different partners join the efforts. It is the public servants' responsibility to be fully informed and continuously partake in the full disclosure process. Public servants must evaluate their functions and responsibilities and how they are or may be in position to influence the decision-making process, gain insider information or benefit from CDBG-DR assisted activities, contracts or agreements, be it for themselves or a member of their family unit. This disclosure process must be an ongoing and constant activity as PRDOH and CDBG-DR programs continually evolve and numerous partners are added.

## **5.8 Exceptions**

HUD may grant exceptions to the non-procurement standards provisions of this Policy upon a written request submission on a case by case basis. However, HUD will only consider an exception request that complies with the following threshold requirements 24 C.F.R. § 570.611(d):

1. A full disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and
2. An opinion of PRDOH Legal Division confirming that the interest for which the exception is sought would not violate State or local law.

As stated in 24 C.F.R. § 570.611(d)(2), there are a variety of situations that may allow for HUD to grant an exception to the conflict of interest prohibition. These will be considered on a case by case basis. When determining whether an exception request may be granted, HUD shall conclude that such an exception would further the purpose of the Program and effective and efficient administration of the Program can be maintained. The following factors may be considered:

1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;

2. Whether an opportunity was provided for open competitive bidding or negotiation;
3. Whether the person affected is a member of a group or class of low- or moderate-income person intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
4. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to specific assisted activity in question;
5. Whether the interest or benefit was presented before the affected person was in the decision-making position or exercised CDBG-DR functions or responsibilities.
6. Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
7. Any other relevant considerations.

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## 5.9 Process

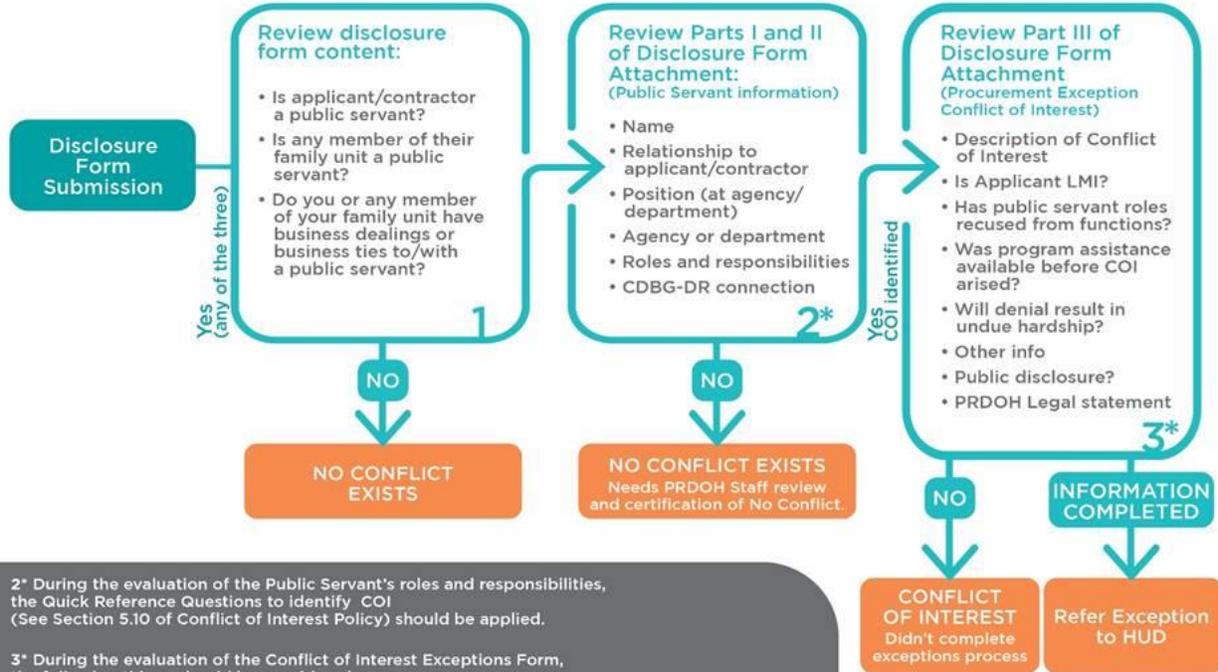
### 5.9.1 Process for addressing Non-Procurement conflicts of interest



PRDOH, in its ultimate duty to ensure compliance with Federal and State regulations related to conflict of interest, is empowered to carry-out investigations to determine if a CDBG-DR applicant, contractor or vendor has any apparent or real conflict of interest.

5.9.2 Process for Legal Director's Evaluation

**LEGAL DIRECTOR'S EVALUATION OF CONFLICT OF INTEREST**



2\* During the evaluation of the Public Servant's roles and responsibilities, the Quick Reference Questions to identify COI (See Section 5.10 of Conflict of Interest Policy) should be applied.

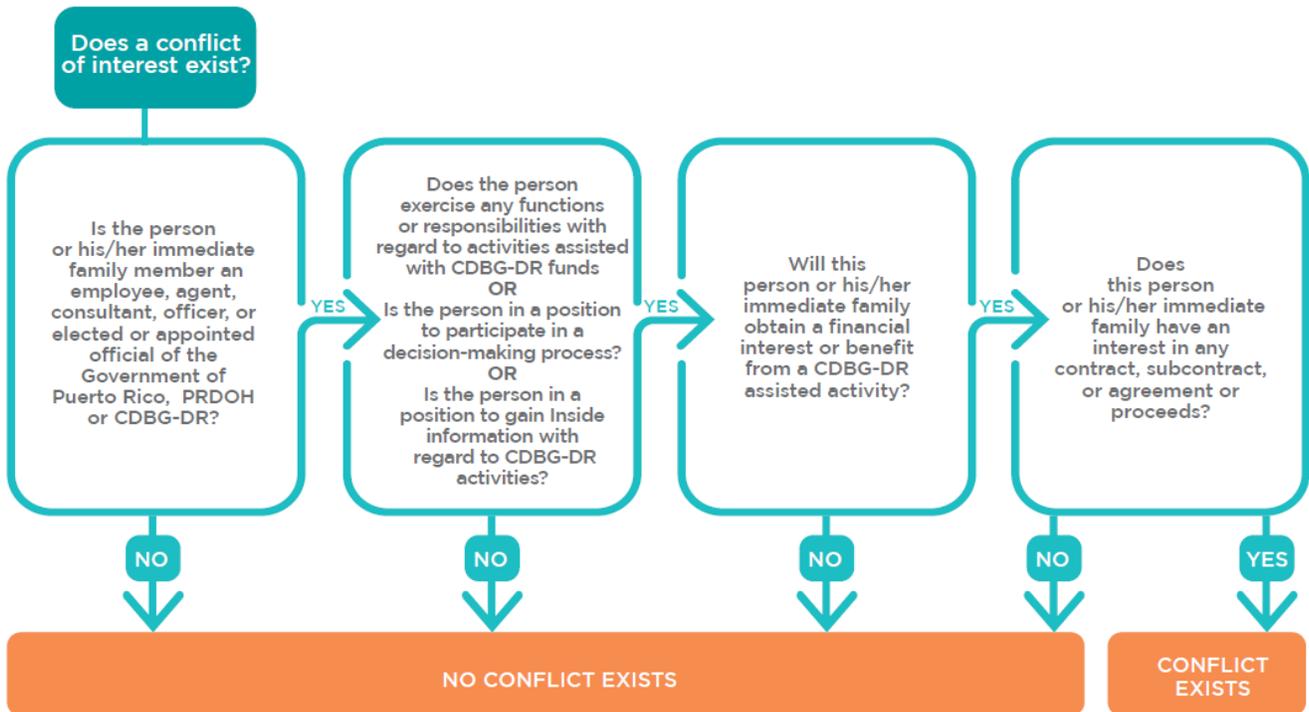
3\* During the evaluation of the Conflict of Interest Exceptions Form, the following things should be considered:

- Results of conceding the exception (cost-benefit evaluation)
- Were all policies and procedures properly followed?
- Would the Applicant meet the program requirements if not for the possible COI? (LMI)
- Would undue hardship fall upon PRDOH, CDBG-DR programs, the Government of Puerto Rico, or the persons affected by avoiding the conflict of interest?
- Employee with COI has recused him/herself from the conflicted activities/process.
- Interest/benefit was present before the person was in the conflicting position.
- Any other considerations relevant to the situation.

### 5.10 Quick reference questions to identify Conflict of Interest

In order to identify any apparent or real conflict of interest, the following questions must be taken into consideration:

## DETERMINATION OF CONFLICT OF INTEREST



## 6 Violations

Any alleged violations of the standards set forth in this Policy shall be immediately referred to the Director of the Legal Division of CDBG-DR. The offending employee, officer or agent will be subject to disciplinary actions that could result in his/her termination of employment.

Disciplinary actions can be from a written reprimand, summary job suspension, suspension from job and pay, up to removal or discharge.

As mentioned above, failure to comply with any of the standards established herein by any subrecipient, partner, contractor, vendor or consultant could result in the immediate

suspension or termination of CDBG-DR activities being carried out by the subrecipient, partner, contractor, vendor or consultant.

Although a conflict of interest itself does not constitute a criminal act, it can lead to other acts, such as deliberately hiding relationships, financial gains or other advantages through false statements, misrepresentations, or filing false documents, which are crimes. If violations to this Policy lead to any criminal act, the matter will be referred to the appropriate officers for criminal investigation and possible prosecution.

## **7 Reporting and Referrals**

When an apparent or real conflict of interest situation is reported concerning an employee, officer or agent, the CDBG-DR Legal Division Director shall conduct an investigation following established process and procedures. The investigation will produce a report that includes the decision of the Legal Division regarding the existence or lack of conflict of interest situation and its recommendations. This report will be referred to the corresponding area or division for consideration when attending to and mitigating the real or apparent conflict of interest:

- If the COI situation pertains to a Fraud, Waste, Abuse or Mismanagement situation, refer to Audit for investigation, or Office of Inspector General;
- If the COI situation pertains to personnel, refer to Human Resources Division and copy the Disaster Recovery Deputy Secretary;
- If the COI situation pertains to procurement, refer to the Procurement Division and copy the Disaster Recovery Deputy Secretary;
- If the COI situation pertains to a program Applicant, refer to the specific Program and copy the Disaster Recovery Deputy Secretary; and
- If the COI situation pertains to any other situation, it shall be reviewed and attended to on a case by case basis.

PRDOH and each specific area or division may, at its sole discretion, determine how an apparent or real conflict of interest situation is handled. The Legal Division will include, in its evaluation report, a series of steps and recommendations that will allow for the proper handling of the real, potential or apparent conflict of interest. The responsibility of the handling and mitigation of the conflict of interest situation falls upon each area or division.

## 8 Approval

This Policy will take effect immediately after its approval. This document supersedes any previously approved version.



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Maytte Texidor López, Esq.  
Legal Director  
CDBG-DR Program

March 9, 2020

Date

**END OF POLICY.**